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- (c) using a tent or shelter or other structure for a living accommodation;
- (d) carrying on cooking activities; or
- (e) digging or earth breaking activities.

(2) HOMELESS SHELTER means a supervised publicly or privately operated facility that is designed to provide temporary living accommodations for individuals who lack a fixed, regular, and adequate residence while providing them with social service and other assistance to find a home and that is designated by the city as a shelter.

(3) PARK means a parcel of land dedicated and used as parkland, or city-owned land used for a park or recreational purpose that is under the administrative control of the Parks and Recreation Department.

(4) PUBLIC AREA means an outdoor area accessible to the public including a street, highway, park, parking lot, alleyway, pedestrian way, and the common areas of a school, hospital, apartment building, office building, transport facility, or business.

9-4-11(2) FINDINGS:

- (A) Council finds that the city has a compelling interest in:
 - (1) Protecting the health and safety of all residents and visitors, including people who are experiencing homelessness;
 - (2) Ensuring the free movement of pedestrians and vehicles without undue obstruction or delay, or exposure to dangerous vehicular traffic, that may be caused by people camping in areas where there is high pedestrian or vehicular traffic;
 - (3) Protecting the environment, water quality and public health, and mitigating fire risk in sensitive, flood-prone, or high fire risk areas that may be negatively affected by people camping; and

76 (4) Ensuring that parks and other public spaces are, to the greatest
77 extent possible, protected and available for equal access and use
78 by all.

79 (B) Council finds that camping in public areas can, in the areas and
80 circumstances identified in this section:

81 (1) threaten public health and safety, including the health and safety
82 of those camping;

83 (2) create substantial risks to the environment; and

84 (3) block or obstruct the safe access of pedestrians and vehicles to
85 buildings and public infrastructure.

86 (C) Council finds that unwanted camping in the areas identified in
87 Subsection (D) of City Code Section 9-4-11(3) (*Camping in Public*
88 *Area Prohibited*) may be prohibited by other applicable law or by
89 other applicable property or building use rules. Nonetheless, Council
90 finds that the risks posed by unwanted camping are great enough to
91 ensure that camping is prohibited in those areas.

92

93 **9-4-11(3) OFFENSES; EXCEPTIONS; AND AFFIRMATIVE DEFENSE:**

94

95 (A) Except as provided in Subsection (F), a person commits an offense
96 if the person camps in a public area that is not designated as a
97 camping area by the city and the person is:

98

99 (1) materially endangering the health or safety of another person or
100 of themselves; or

101

102 (2) intentionally, knowingly, or recklessly rendering impassable, or
103 impeding, the reasonable use of a public area making usage of
104 such area unreasonably inconvenient or hazardous.

105

106 (B) Except as provided by Subsection (F), a person commits an offense
107 if the person camps in an area that is not designated as a camping
108 area by the city and the person is:

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110 (1) on or inside a culvert or storm drain;

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- (2) in the bed or on the bank of a creek or river and within 5 feet of the top of the bank of a creek or river;
- (3) on any part of an accessibility ramp for persons with disabilities;
- (4) on land that the city has designated as having a high fire risk;
- (5) on a sidewalk;
- (6) on the following high pedestrian and vehicular traffic roadways, including any sidewalks as referenced in (5) above or right-of-way:
 - a. Guadalupe Street between Martin Luther King Jr. Blvd. and 26th Street;
 - b. 24th Street between N Lamar Blvd and Guadalupe Street
 - c. Congress Avenue between Oltorf Street and 11th Street;
 - d. 2nd Street between Trinity Street and West Avenue;
 - e. 5th Street between IH-35 and Lamar Blvd;
 - f. 6th Street between IH-35 and Lamar Blvd;
- (7) In areas established around shelters as follows:
 - a. Within the area of the Austin Resource Center for Homeless (ARCH) bordered by East 4th Street (South), Brushy Street (East), East 11th Street (North), and Brazos Street (West), excluding any area under IH-35;
 - b. At the time that the South Austin Housing Center homeless shelter becomes operational, within the area bordered by the western boundary of Manchaca Road, the eastern boundary of South 1st Street, the northern boundary of Lightsey Road, and the southern boundaries of Redd Street and West St. Elmo;

148 (8) on a traffic island, median strip, median island, intersection
149 island or other similar area that separates opposing traffic flows
150 with either a painted area or a raised curb; or

151
152 (9) on the sloped area under a highway and at the top of a retaining
153 wall or alongside a highway overpass;

154
155 (C) A person commits an offense if the person camps in a manner that:

156
157 (1) damages, alters, or modifies public infrastructure, including
158 benches, retaining walls, or planters;

159 (2) obstructs access to or egress from the entrance or exit of any
160 building by camping within six feet of the entrance or exit, as
161 measured from the door jamb; or

162 (3) obstructs normal use of and access to public infrastructure,
163 including benches or parking pay stations.

164
165 (D) Except as provided by Subsection (F), a person commits an offense
166 if the person camps in an area that is not designated as a camping
167 area by the city and the person is in an area which is prohibited
168 under other law or rule, including:

169 (1) in a park;

170 (2) on land designated by the city for conservation, preservation,
171 or water protection including nature preserves, the Balcones
172 Canyonland Preserves, and Austin Water Wildlands;

173 (3) on flood buy-out lands that the city has acquired as high flood
174 risk areas;

175 (4) in the right-of-way of a railroad or light rail track or crossing;

176 (5) in a city library or on the grounds of a city library;

177 (6) on private property without the permission of the owner or a
178 person with apparent authority to act for the owner;

179 (7) in or on transit stops, shelters, platforms, or stations; or

180 (8) in a designated and marked special use zone, including
181 construction zones, commercial service zones, passenger
182 loading zones, customer service zones, and valet zones.

183
184 (E) A person is camping if the person engages in any of the activities
185 listed in Subsection (A)(1) of City Code Section 9-4-11(1)
186 (*Camping in Public Area Prohibited*) if it reasonably appears, based
187 on the totality of the circumstances, that the person conducting the
188 activity is using a public area for living accommodation purposes,
189 regardless of the person's intent or engagement in other activities.

190
191 (F) This section does not apply to camping or cooking in a park that
192 complies with park regulations.

193
194 (G) It is an affirmative defense to prosecution that a person owns the
195 property or has secured the permission of the property owner to
196 camp in a public area.

197
198 **9-4-11(4) ENFORCEMENT AND ENGAGEMENT PROCESS:**

199
200 Unless a law enforcement officer determines that there is an imminent
201 health or safety threat, a law enforcement officer may only issue a citation
202 for a violation of this section if, prior to issuing the citation, the law
203 enforcement officer:

204
205 (A) notified the person that the conduct violates this section;

206
207 (B) provides the person with a reasonable opportunity to comply with
208 the prohibition, but the person does not comply; and

209
210 (C) contacts, whenever reasonable, a member of a Homeless Outreach
211 Street Team (HOST), case worker, community health paramedic, or
212 other city designee who shall have the opportunity to offer to
213 transport a person who continues to camp in violation of City Code
214 Section 9-4-11(*Camping in Public Area Prohibited*) to a location at
215 which camping, is not prohibited and, as reasonably possible, at
216 which case management and housing services can be received; or

217
218 (D) determines that the person has previously been notified by a law
219 enforcement officer that the person's conduct at that same address or

220 area violates this section, and the law enforcement officer determines
221 that contact as set forth in Subsection (C) above is not reasonable.

222
223 **PART 3.** The caption and City Code Section 9-4-14 (*Obstruction in the*
224 *Downtown Austin Community Court Area Prohibited*) are repealed and replaced to
225 read as follows:

226
227 **§ 9-4-14 OBSTRUCTION IN THE DOWNTOWN AUSTIN COMMUNITY**
228 **COURT AREA AND SITTING OR LYING IN OTHER SPECIFIED AREAS**
229 **PROHIBITED**

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231 **9-4-14(1) DEFINITIONS:**

232
233 In this section:

234
235 (A) **DISABILITY** means having a physical or mental impairment which
236 substantially limits one or more major life activities.

237
238 (1) **PHYSICAL OR MENTAL IMPAIRMENT** means any
239 physiological disorder or condition, cosmetic disfigurement, or
240 anatomical loss affecting one or more of the following body
241 systems: neurological; musculoskeletal; special sense organs;
242 respiratory, including speech organs; cardiovascular;
243 reproductive, digestive; genitourinary; hemic and lymphatic;
244 skin; and endocrine; or any mental or psychological disorder,
245 such as mental retardation, organic brain syndrome, emotional
246 or mental illness, and specific learning disabilities.

247
248 (2) **MAJOR LIFE ACTIVITIES** means functions such as caring
249 for one's self, performing manual tasks, walking, seeing,
250 hearing, speaking, learning, breathing, and working.

251
252 (B) **HOMELESS SHELTER** means a supervised publicly or privately
253 operated facility that is designed to provide temporary living
254 accommodations for individuals who lack a fixed, regular, and
255 adequate residence while providing them with social service and
256 other assistance to find a home and that is designated by the city as a
257 shelter.

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260 **9-4-14(2) FINDINGS:**

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- (A) The council finds that the city has a compelling interest in:
 - (1) encouraging and preserving a vital, pedestrian-friendly urban core;
 - (2) promoting tourism and business in the central business district;
 - (3) preserving the quality of urban life; and
 - (4) encouraging businesses and neighborhoods in the central city where walking is a realistic alternative to vehicles that use fossil fuels.

- (B) The council finds that in areas with high pedestrian traffic and a high incidence of petty crime related to public disorder, individuals obstructing, sitting, or lying in the pedestrian right-of-way:
 - (1) are disruptive to residents, businesses, and customers;
 - (2) discourage, block, or inhibit the free passage of pedestrians; and
 - (3) contribute to the loss of access to and enjoyment of public places.

9-4-14(3) OFFENSES; EXCEPTIONS; AND AFFIRMATIVE DEFENSE:

- (A) A person commits an offense if the person is:
 - (1) obstructing the right-of-way between the roadway and the abutting property line or structure, or on an object placed in that area, and the person is:
 - (i) materially endangering the health or safety of another person or of themselves; or

- 299 (ii) intentionally, knowingly, or recklessly rendering
300 impassable or impeding the reasonable use of a public area
301 making usage of such area unreasonably inconvenient or
302 hazardous;
303
- 304 (2) obstructing a sidewalk, trail, or shared-use path; or
305
- 306 (3) obstructing access to or egress from the entrance or exit of any
307 building by sitting or lying down within six feet of the entrance
308 or exit, as measured from the door jamb; and
309
- 310 (4) the person is located in the following area, including the streets
311 and pedestrian rights-of-way that bound the area, but not
312 including the campus of the University of Texas:
313
- 314 (i) beginning at the intersection of 29th Street (West) and
315 Lamar Boulevard (North);
316 (ii) south on Lamar Boulevard (North) to the north shore of
317 Lady Bird Lake;
318 (iii) east along the north shore of Lady Bird Lake to the point
319 directly south of the curve at the intersection of Jesse E.
320 Segovia Street and Robert Martinez, Jr. Street;
321 (iv) north to the curve at the intersection of Jesse E. Segovia
322 Street and Robert Martinez, Jr. Street;
323 (v) west along Jesse E. Segovia Street to the intersection of
324 Chicon Street;
325 (vi) north on Chicon Street to the intersection of Seventh
326 Street (East);
327 (vii) west on Seventh Street (East) to the IH-35 East Frontage
328 Road;
329 (viii) north on the IH-35 East Frontage Road to the
330 intersection of Martin Luther King, Jr. Boulevard;
331 (ix) west on Martin Luther King, Jr. Boulevard to the
332 intersection of Guadalupe Street;
333 (x) north on Guadalupe Street to the intersection of 29th
334 Street (West); and
335 (xi) northwest on 29th Street (West) to the intersection of
336 Lamar Boulevard (North), the place of beginning.
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- (B) A person commits an offense if the person sits or lies down in the following areas:
- (1) in the right-of-way of a railroad or light rail track or crossing;
 - (2) in a designated and marked special use zone, including, construction zones, commercial service zones, passenger loading zones, customer service zones, and valet zones;
 - (3) on any part of an accessibility ramp, located in a public place, for persons with disabilities, or in any manner that would restrict the movement of persons with disabilities in a public place;
- (C) A person commits an offense if the person sits or lies down in the following areas:
- (1) Within the area of the Austin Resource Center for Homeless (ARCH) bordered by East 4th Street (South), Brushy Street (East), East 11th Street (North), and Brazos Street (West), excluding any area under IH-35; or
 - (2) At the time that the South Austin Housing Center homeless shelter becomes operational, within the area bordered by the western boundary of Manchaca Road, the eastern boundary of South 1st Street, the northern boundary of Lightsey Road, and the southern boundaries of Redd Street and West St. Elmo.
- (D) This section does not apply to a person who:
- (1) is obstructing the right-of-way, or sitting or lying, because of a medical emergency;
 - (2) operates or patronizes a commercial establishment that conducts business on the sidewalk under Title 14 (*Streets and Use of Public Property*) of the Code;
 - (3) participates in or views a parade, festival, performance, rally, demonstration, or similar event;
 - (4) sits on a chair or bench that is supplied by a public agency or by the abutting private property owner;
 - (5) sits within a bus stop zone while waiting for public or private transportation; or

376 (6) is waiting in a line for goods, services, or a public event.

377

378

379 (E) It is an affirmative defense to prosecution if a person is obstructing
380 the right-of-way, or sitting or lying, as the result of a physical
381 manifestation of a disability, even if the manifestation of the
382 disability is not visually observable.

383

384 **9-4-14(4) ENFORCEMENT AND ENGAGEMENT PROCESS:**

385

386 Unless a law enforcement officer determines that there is an imminent
387 health or safety threat, a law enforcement officer may only issue a citation
388 for a violation of this section if, prior to issuing the citation, the law
389 enforcement officer:

390

391 (A) notifies the person that the conduct violates this section;

392

393 (B) provides the person with a reasonable opportunity to comply with
394 the prohibition, but the person does not comply; and

395

396 (C) contacts, whenever reasonable, a member of a Homeless Outreach
397 Street Team (HOST), case worker, community health paramedic, or
398 other city designee who shall have the opportunity to offer to
399 transport a person who continues to obstruct, sit, or lie in violation of
400 City Code Section 9-4-14 (*Obstruction in the Downtown Austin
401 Community Court Area and Sitting or Lying in Other Specified Areas
402 Prohibited*) to a location at which such obstructing, sitting, or lying
403 is not prohibited and, as reasonably possible, at which case
404 management and housing services can be received; or

405

406 (D) determines that the person has previously been notified by a law
407 enforcement officer that the person's conduct at that same address or
408 area violates this section, and the law enforcement officer determines
409 that contact as set forth in Subsection (C) above is not reasonable.

410

411 **PART 4. Instruction to City Manager.**

412

413 (A) The City Manager shall provide to Council a quarterly report
414 for the first year after passage of this ordinance detailing how
415 often an accused offender under City Code Section 9-4-11

416 (Camping in Public Area Prohibited) and City Code Section 9-
417 4-14 (Obstruction in the Downtown Community Court Area
418 and Sitting or Lying in Other Specified Areas Prohibited) is
419 and is not diverted from criminal sanction through the
420 Enforcement and Engagement process created in City Code
421 Sections 9-4-11 (Camping in Public Area Prohibited) and 9-4-
422 14 (Obstruction in the Downtown Community Court Area and
423 Sitting or Lying in Other Specified Areas Prohibited).

424
425 (B) At such time that the City designates additional homeless
426 shelters, the City Manager shall propose amendments to
427 establishing boundaries to prohibit camping, sitting or lying
428 within approximately one-quarter mile to one-half mile of the
429 shelter as the City Manager determines is necessary to protect
430 public health and safety.

431
432 (C) At such time that the Austin Transportation Department
433 identifies additional high pedestrian and vehicular traffic
434 roadways where camping creates a public safety risk, the City
435 Manager shall propose amendments to Subsection (3)(B)(6) of
436 City Code Section 9-4-11 (Camping in Public Area Prohibited)
437 to add these roadways.

438
439 **PART 5. This ordinance takes effect 15 days after passage of the ordinance.**

440
441 **PASSED AND APPROVED**

442 §
443 §
444 _____, 2019 § _____

445 Steve Adler
446 Mayor

447
448 **APPROVED:** _____ **ATTEST:** _____
449 Anne L. Morgan Jannette S. Goodall
450 City Attorney City Clerk